IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THURSDAY, THE SECOND DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT APPEAL Nos. 1247, 1251,1252 and 1253 of 2004

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WRIT APPEAL NO : 1247 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 17/12/2003 in WP NO : 20876 OF 1997 on the file of the High Court.)

Between:

Timmasamudram Indira, W/o. B. Subbarayudu,
R/o.H.No.19-7-87-U, Rayalcheruvu Road, Tirupathi, Chittoor District.

..... APPELLANT

AND

1 The District Collector, Chittoor, Chittoor District.
2 Mandal Revenue Officer, Tirupathi Rural Mandal, Chittoor District.
3 P. Krishna Murthy, Mandal Revenue Officer,
Tirupathi Rural Mandal, Chittoor district.

.....RESPONDENT(S)

Counsel for the Appellant:MR.V.VENKATARAMANA

Counsel for the Respondents 1 to 3.: GP FOR REVENUE

WRIT APPEAL NO : 1251 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 30/01/2004 in WP NO : 29029 OF 1997 on the file of the High Court.)

Between:

1 C.Balakrishnaiah, S/o Late Chengaiah,
R/o H.No.19-7-104/A, Gopalaraju Colony, Tirupathi, Chittoor District
2 Smt.Timmasamudram Indira, W/o T.Subbarayudu,
R/o H.No.19-7-87/U, Rayalacheruvu Road, Tirupathi, Chittoor District
3 Smt.Pendyala Chenchamma, W/o Subbarama Chowdary,
R/o 19-7-104, Gopalaraju Colony, Tirupathi, Chittoor District

..... APPELLANT(S)

AND

1 The Tirupathi Urban Development Authority, Tirupathi, Chittoor District rep.by the Vice Chairman
2 Mandal Revenue Officer, Tirupathi Rural Mandal, Chittoor District

.....RESPONDENT(S)

Counsel for the Appellanta:MR.V.VENKATARAMANA

Counsel for the Respondents 1 and 2.: MR.K.BATHI REDDY

WRIT APPEAL NO : 1252 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 17.12.2003 in W.P. NO :20894 OF1997 on the file of the High Court.)

Between:

C. Balakrishnaiah, S/o. Late Chengaiah, Hindu,
R/o. H.No. 19-7-104/A, Gopalaraju Colony, Tirupathi, Chittoor District.

..... APPELLANT

AND

1 The District Collector, Chittoor, Chittoor District,
2 Mandal Revenue Officer, Tirupathi Rural Mandal, Chittoor District.
3 P. Krishna Murthy, Mandal Revenue Officer, Tirupati Rural Mandal, Chittoor District.

.....RESPONDENT(S)

Counsel for the Appellant:MR.V.VENKATARAMANA

Counsel for the Respondent Nos. 1 to 3: GP FOR REVENUE

WRIT APPEAL NO : 1253 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 17/12/2003 in WP NO : 20897 OF 1997 on the file of the High Court.)

Between:

Smt. Pendyala Chenchamma, W/o. T. Subbaramachoudary, Hindi,
R/o. H.No. 19-7-104, Gopalaraju Colony, Tirupathi, Chittoor District.

..... APPELLANT

AND

1 The District Collector, Chittoor, Chittoor District.
2 Mandal Revenue Officer, Tirupathi Rural Mandal, Chittoor District.
3 P. Krishna Murthy, Mandal Revenue Officer,
Tirupathi Rural Mandal, Chittoor District.

.....RESPONDENT(S)

Counsel for the Appellant:MR.V.VENKATARAMANA

Counsel for the Respondent Nos.1 to 3: GP FOR REVENUE

The Court made the following Common Judgment: (per Sri Devinder Gupta,CJ)

Appellants' case is that their predecessors had submitted applications for grant of pattas to the then Tahsildar and after enquiry, the Tahsildar held that the appellants were entitled to assignment and granted pattas of small portions of land in Survey No. 19/6 of Avilala Village. It was further alleged that they have reclaimed the land and developed it. When the respondents were interfering with the possession of the appellants, they approached this Court by filing Writ Petition No. 10325 of 1995 and batch and obtained status-quo order and some enquiry was also directed to be conducted by the Mandal Revenue Officer and ultimately the writ petitions were disposed of by this Court by common judgment holding that enquiry has to be conducted by the Mandal Revenue Officer, Tirupathi Rural, Chittoor District after affording sufficient opportunity of hearing to the appellants as also the implead applicants, the State and other interested persons and then to pass appropriate orders. The Mandal Revenue Officer, Tirupati Rural Mandal , Chittoor on 23.7.1997

in Proceedings Roc. No. A/479/97 passed an order pursuant to the directions issued in Writ Petition Nos.8412, 10322, 10323 and 10325 of 1995, dated 25.2.1997 and recorded a finding that Survey No.19 with an extent of 13.87 Acs. of Avilala Village is classified as 'Cheruvuthottu' poramboke and the classification is unchanged even today and retains same classification and the land is purely vested with the Government and, therefore, the plea of the appellants and the implead applicants for claiming ownership of the extents was on the basis of fabricated documents and bogus entries and thus negatived their claim. Feeling aggrieved, the appellants have approached this Court by filing writ petitions impugned in these appeals. The writ petitions were disposed of by a learned single judge of this Court by Orders dated 17th December, 2003 and 30th January, 2004, which are now under challenge before us.

In view of the disputed questions of fact, learned single judge observed that to take recourse to filing of writ petitions is not appropriate remedy. The learned single judge thereafter instead of reserving liberty to the appellants herein to seek remedy in accordance with law, proceeded further in the matter and held that the only remedy available to the appellants was to file Civil Suit and not an appeal or revision since complicated questions of law and fact cannot be decided in appeal or revision taken before the concerned authorities.

We have heard the learned counsel for the parties and gone through the record.

In so far as the orders of learned single judge are concerned, that in such like disputed questions of fact where the challenge is to the order passed by the Mandal Revenue Officer, after detailed enquiry, filing of writ petition was not the appropriate remedy. In other words, the learned single judge declined to exercise the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India on the questions raised in the writ petitions. After having done so, the proper course for the learned single judge would have been to reserve liberty to the parties to seek

redressal of their grievances in appropriate forum by way of filing appeal or revision against the orders impugned in the writ petitions. The learned single judge ought not to have in these proceedings proceeded to hold as to what remedy the appellants must avail. None of the parties to the proceedings have sought adjudication on such a point. Learned single judge on his own thought that appeal or revision would not be the appropriate remedy. May be, the learned single judge felt that the same will not form part of direction.

Learned counsel for the appellants states that under the provisions of the Record of Rights Act, there is a remedy of preferring appeal to Revenue Divisional Officer. Further, revisional remedy, which can be availed of before the District Collector/Joint Collector, whereas under the Board Standing Orders, remedy of appeal can be availed of before the District Collector/Joint Collector. Since appellants are claiming their right, title and interest over some portions of land in Survey No.19 being agricultural land the revenue authorities have to decide the title and in case, it is a patta land where rights are being claimed under a patta, Board's Standing Orders would come into operation. In any case, since the dispute is only as regards the entries in the revenue records, the remedies under the Record of Rights Act have to be availed. However, we may not in these proceedings adjudicate upon as to which remedy the appellants should be left to avail. It is for the appellants to seek appropriate remedy in accordance with law more especially when the learned single judge had declined to exercise the writ jurisdiction under Article 226 of the Constitution of India.

Consequently, we allow the appeals in part and set aside that part of the orders of the learned single judge which reserved the appellants' rights to seek redressal only in Civil Court reserving liberty to the appellants to challenge the order of Mandal Revenue Officer impugned in the writ petitions before the appropriate competent authorities in accordance with law. No costs.

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DEVINDER GUPTA, CJ

Date: 2nd September, 2004

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C.V.RAMULU,J

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To

1. The District Collector, Chittoor, Chittoor District.

2. The Mandal Revenue Officer, Tirupathi Rural Mandal, Chittoor District.

3. The Vice Chairman, Tirupathi Urban Development Authority, Tirupathi, Chittoor District .

4. Two C.Cs. to G.P. for Revenue, High Court Buildings, Hyderabad. (OUT)

5. Two C.D. copies